

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FRED McCUALEY,)	
)	
Plaintiff,)	Civil Action No. 13-126 Erie
)	
v.)	District Judge Mark R. Hornak
)	Magistrate Judge Susan Paradise Baxter
BRIAN C. AINKO, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

This case is before the Court on the Report and Recommendation issued by United States Magistrate Judge Susan Paradise Baxter on September 3, 2013, recommending that the instant civil action be dismissed as legally frivolous pursuant to 28 U.S.C. §1915(e). The Plaintiff was served with the Report and Recommendation at his address of record and was informed that he had until September 20, 2013 in which to file written objections. As of the date of this order, however, no objections have been filed. Therefore, after *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered.

AND NOW, this 27th day of September, 2013,

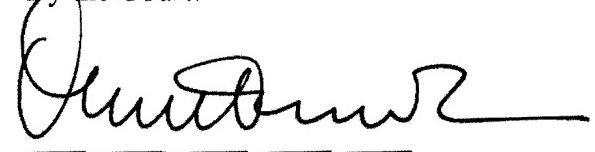
IT IS HEREBY ORDERED that the above-captioned matter is **DISMISSED** as frivolous in accordance with 28 U.S.C. §1915(e).

IT IS FURTHER ORDERED that the Report and Recommendation dated September 3, 2013 (ECF No. 9) is **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days in which to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:



Mark R. Hornak
United States District Judge

cc: Fred McCauley
KC 2374
SCI Albion
10745 Route 18
Albion, PA 16475-0002
(Via First Class U.S. Postal Mail)